

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JOHN F. CYR,

Plaintiff,

v.

STATE OF WASHINGTON,

Defendant.

CASE NO. C12-6056 BHS

ORDER AMENDING ORDER
GRANTING DEFENDANTS'
MOTION TO DISMISS

This matter comes before the Court *sua sponte*. On June 4, 2013, the Court issued an order which dismissed Defendants, the State of Washington's Department of Health and Social Services ("DSHS"), and two DSHS employees, based primarily on the statute of limitations. *See* Dkt. 26 at 4 (finding applicable three-year statute of limitations for tort actions in Washington and the same limitations period for 42 U.S.C. §§ 1983 and 1985 claims). However, the Court inadvertently failed to dismiss the State itself. For the same reasons the Court dismissed the other Defendants, it should have dismissed the State. Additionally, the State is not a "person" within the meaning of 42 U.S.C. §§ 1983 and has not waived its sovereign immunity from suit. *See Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989).

Although Plaintiffs have filed a notice of appeal (Dkt. 28) regarding the above-cited order, which they believe included dismissal of the State, the Court is not divested of jurisdiction. The State of Washington has not actually been dismissed from the case. Moreover, judgment has not been entered in favor of any dismissed Defendant.

1 This Court's prior order (Dkt. 26) is amended by the instant order adding dismissal
2 of all claims against the State of Washington.

3 Accordingly, it is hereby **ORDERED** that the State of Washington is
4 **DISMISSED** from this action. The clerk is directed to close the case and enter judgment
5 in favor of all the Defendants.

6 Dated this 15th day of November, 2013.

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BENJAMIN H. SETTLE
United States District Judge